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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,610	07/18/2005	Kenji Nakamoto	L9289.05160	6826

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STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON, DC 20036

EXAMINER

NGUYEN, HUNG T

ART UNIT	PAPER NUMBER
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2612

MAIL DATE	DELIVERY MODE
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05/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,610

Applicant(s)

NAKAMOTO, KENJI

Examiner

HUNG T. NGUYEN

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/18/05 & 1/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider, Jr. (U.S. 6,181,236).

Regarding claim 6, Schneider discloses a whistle signaling (14) [fig.2, col.2, lines 25-48] comprising:

- a receiver device (28) to receive the whistle signals / audible from a reference by wireless signal [fig.2, col.2, lines 25-48 and col.3, lines 26-29];
- light / illumination (32) [fig.2, col.2, lines 25-35 and col.3, lines 26-29, lines 44-46];
- a control section couple to the receiver (28) to activate the illumination signal (32) is inherently after receiving audible signal (14) is blown from a referee which transmit by a transmitter (18) [fig.2, col.2, line 63 to col.3, line 22 and col.3, lines 26-46].

Regarding claim 7, Schneider discloses an ON/OFF switch (20) on the transmitter (18) for controlling whether or not a wireless signal should be generated [fig.2, col.3, lines 41-46].

Art Unit: 2612

Regarding claim 8, Schneider discloses the transmitter (18) may attach to a body of referee and receive device (28) & lights (32) may install in predetermine location [fig.2, col.3, lines 41-46]; and the ON/OFF switch (20) on the transmitter (18) coupled with the whistle (10) for controlling whether or not a wireless signal should be generated [fig.2, col.3, lines 41-46].

Regarding claim 9, Schneider discloses a whistle signaling (14) [fig.2, col.2, lines 25-48] comprising:

- a receiver device (28) to receive the whistle signals / audible from a reference by wireless signal [fig.2, col.2, lines 25-48 and col.3, lines 26-29];
- light / illumination (32) [fig.2, col.2, lines 25-35 and col.3, lines 26-29, lines 44-46];
- a control section / control circuit couple to the receiver (28) to activate the illumination signal (32) is inherently after receiving audible signal (14) is blown from a referee which transmit by a transmitter (18) [fig.2, col.2, line 63 to col.3, line 22 and col.3, lines 26-46].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2612

4. Claims 1-5 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider, Jr. (U.S. 6,181,236) in view of Gertler et al. (U.S. 4,314,316).

Regarding claims 1 & 5, Schneider discloses a whistle signaling (14) [fig.2, col.2, lines 25-48] comprising:

- a whistle body (10) [fig.1];
- a transmitter (18) is combined with sensor (12) to detect diaphragm (40) as deflecting [fig.3, col.1-22];
- a receiver (28) to activate the illumination signals (32) / visual indicators or indication on TV screen after receiving audible signal (14) is blown from a referee which transmit by the transmitter (18) [fig.2, col.2, line 63 to col.3, line 22 and col.3, lines 26-46].

The reference of Schneider does not specifically mention a rolling element or a ball or sphere is in the whistle body because that is obvious design choice of the skilled artisan.

However, Schneider discloses the transmitter (18) is combined with sensor (12) to detect diaphragm (40) as deflecting in the whistle body (10) when air is blow into the mouthpiece (22), thereby actuating the switch (42). The switch is electrically connect to the transmitter (18) [fig.3, col.12-22].

Furthermore, Gertler teaches a rolling element (28) or a ball or sphere is install in the whistle chamber and illuminating apparatus (36) which may include audio sound comprises a mouthpiece chamber for producing the forcible passage of air against a flexible conductive contact which completes an electrical circuit to a lamp and the rolling

Art Unit: 2612

element (28) may cause a varying audible sound signals as desired [fig.5, col.3, lines 43-68].

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching of Gertler includes a rolling element / ball / sphere device inside the whistle chamber in the system of Schneider for detecting movement of the rolling element.

Regarding claims 2-4, Schneider discloses air is blown into the mouthpiece (22) which is connected to the sound chamber (24) and emits a multiple audible signals / level of sounds can be heard depending how strongly or softly blowing the air to the mouthpiece by referee;

- the transmitter (18) may attach to a body of referee and receive device (28) & lights (32) may install in predetermine location [fig.2, col.3, lines 41-46]; and the ON/OFF switch (20) on the transmitter (18) coupled with the whistle (10) for controlling whether or not a wireless signal should be generated [fig.2, col.3, lines 41-46]; and

Gertler teaches the rolling element (28) or a ball or sphere is install in the whistle chamber and illuminating apparatus (36) which may include audio sound comprises a mouthpiece chamber for producing the forcible passage of air against a flexible conductive contact which completes an electrical circuit to a lamp and the rolling element (28) may cause a varying audible sound signals as desired [fig.5, col.3, lines 43-68].

Art Unit: 2612

Regarding claim 10, Schneider discloses a whistle signaling (14) [fig.2, col.2, lines 25-48] comprising:

- a whistle body (10) [fig.1];
- a transmitter (18) is combined with sensor (12) to detect diaphragm (40) as deflecting [fig.3, col.1-22];
- a receiver (28) to activate the illumination signals (32) / visual indicators or indication on TV screen after receiving audible signal (14) is blown from a referee which transmit by the transmitter (18) [fig.2, col.2, line 63 to col.3, line 22 and col.3, lines 26-46];
- a receiver device (28) to receive the whistle signals / audible from a reference by wireless signal [fig.2, col.2, lines 25-48 and col.3, lines 26-29];
- light / illumination (32) [fig.2, col.2, lines 25-35 and col.3, lines 26-29, lines 44-46];
- a control section / control circuit couple to the receiver (28) to activate the illumination signal (32) is inherently after receiving audible signal (14) is blown from a referee which transmit by a transmitter (18) [fig.2, col.2, line 63 to col.3, line 22 and col.3, lines 26-46].

The reference of Schneider does not specifically mention a rolling element or a ball or sphere is in the whistle body because that is obvious design choice of the skilled artisan.

However, Schneider discloses the transmitter (18) is combined with sensor (12) to detect diaphragm (40) as deflecting in the whistle body (10) when air is blow into the mouthpiece (22), thereby actuating the switch (42). The switch is electrically connect to the transmitter (18) [fig.3, col.12-22].

Furthermore, Gertler teaches a rolling element (28) or a ball or sphere is install in the whistle chamber and illuminating apparatus (36) which may include audio sound comprises a mouthpiece chamber for producing the forcible passage of air against a flexible conductive contact which completes an electrical circuit to a lamp and the rolling element (28) may cause a varying audible sound signals as desired [fig.5, col.3, lines 43-68].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Gertler includes a rolling element / ball / sphere device inside the whistle chamber in the system of Schneider for sensing movement of the rolling element.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Ehrenreich (U.S. 5,002,006).
- Edlund (U.S. 5,515,808).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Nguyen whose telephone number is (571) 272-2982. The examiner can normally be reached on Monday to Friday from 9:00 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wu, Daniel can be reached on (571) 272-2964. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

HUNG NGUYEN
PRIMARY EXAMINER



Examiner: Hung T. Nguyen

Date: April 27, 2007